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JOSEPH F. SPANIOLO, JR.  
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No. 89-1229

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**SUPREME COURT of the UNITED STATES**

**OCTOBER TERM, 1989**

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**LORI J. JASSO, Petitioner,**

**v.**

**SHERRY A. FINNEY and BRUCE F. FINNEY, Respondents.**

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**ON PETITION FOR A WRIT OF *CERTIORARI*  
TO THE SUPREME COURT  
OF THE STATE OF ALASKA**

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**REPLY BRIEF**

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Respondents' Brief in Opposition to granting *certiorari* herein bogs down in trivial detail of no substance and fails to address the substantive issues in this case. Most importantly, Respondents allege there is no jurisdiction, no factual basis, no standing and that the issues were not raised. Respondents do not attack the integrity of Petitioner's Appendix wherein the Opinion of the State Court sets out the facts and record in detail. Petitioner invites the court to compare the reprinted version of the record with the official reports at 781 P.2d 973.

**QUESTIONS PRESENTED**

Respondents' Questions presented in their Opposition are not properly before this court because Respondents have not timely filed a Cross-Petition, the Opposition does not request the grant of *certiorari*, indeed opposes, and no single document can be both an opposition and a cross-petition. USSC, R. 15.2.

Therefore, Respondents' Questions should be dismissed or

stricken, leaving the only questions presented for review those stated at page (i) of the Petition.

### ***JURISDICTION***

Respondents contend that "no basis for the exercise of *jurisdiction* by this Court has been raised in the Petition." Opp., p. 1.

The contention is frivolous. The *jurisdictional* statement fully complies with the requirement of USSC, R. 14.1(e) as shown on page 1 of the Petition.

### **STATEMENT OF THE CASE**

Respondents adopt the statement of the Alaska Supreme Court as to the facts of this case. Opp., p. 2. Respondents have not included in their Appendix a copy of the Opinion, hence it appears they accept the accuracy of the Opinion reprinted in the Appendix of the Petition.

Facts claimed in the Opposition at pp. 3, 4, 6-8, 12, 34, and 41 simply do not appear anywhere in the lower Court's Opinion, or Respondents provide no citation to the record for proof, or are simply not necessary or relevant for a resolution of the purely legal issues presented by this case.

Additionally, Respondents assert that "Petitioner now contends she wants only visitation rights." Opp., p. 9, footnote 15. That misconstrues what Petitioner has been seeking. From the very first proceeding Petitioner has sought visitation rights, but that is a right she cannot have until the adoption is vacated. See Record on Appeal, p. 195-197, Notice of Proposed Visitation, dated May 25, 1988. The whole purpose was to vacate the adoption so that she could exercise her parental right of

visitation, leaving custody with her natural father, Respondent Bruce F. Finney.

Respondents assert "Although Petitioner now argues ... that her 'actions regarding her consent were based on her knowledge of her rights under Alaskan law,' these allegations were not made, nor are they supported by the record." Opp., p. 6, fn. 12. Clearly the allegations were made and is supported by the record below. PA, p. 29; RT, p. 18.

## ARGUMENT

### I

#### PETITIONER CLEARLY HAS STANDING

Respondents contend that Petitioner has no standing to raise the questions presented because no case or controversy exists. Opp., pp. 11-15. This contention is meritless. The only requirement for standing is that the party have a personal stake in the outcome. *Baker v. Carr*, 369 U.S. 186, 204 (1962). The Alaskan Opinion directly affects Petitioner's parental interest in her daughter. PA, p. 1.

Respondents argue that Petitioner has presented only a "hypothetical case" and an "abstract question," and furthermore, that "Petitioner has failed to allege a factual basis granting her standing to come to this court." Opp., pp. 11-15. Such an argument is patently absurd, absent a contention the decisions reprinted in the Petition's Appendix is a hoax.

## II

### PETITIONER'S SECOND QUESTION IS PROPERLY RAISED

Respondents contend that Petitioner's second question presented to this Court was not raised in the trial court or on appeal to the Alaskan Supreme Court. Opp., p. 16. Such an assertion is groundless absent a contention that the Petitioner's Appendix is not an accurate reprint of the lower courts' opinions. The application of the statute of limitations in 25 U.S.C. § 1913(d) was fully discussed by both the plurality and the dissent. PA, p. 14, and p. 26.

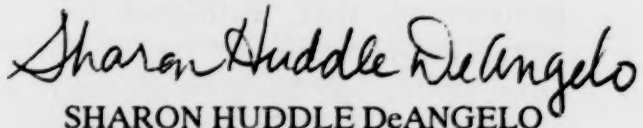
The question of whether Congress intended any statute of limitations or a borrowed statute of limitation to apply to § 1914 of the ICWA was raised by both parties and decided by both the trial court and the Alaskan Supreme Court. See, PA, p. 10-17 and 28-30.

### CONCLUSION

WHEREFORE, Petitioner respectfully prays this court to grant all that relief requested in the Petition.

Dated: March 5, 1990

Respectfully submitted,



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